

**DECISION****THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548**

30019

**FILE:** B-214902**DATE:** December 17, 1984**MATTER OF:** Gerald K. Kandel

**DIGEST:** Even though an employee's travel order authorized the maximum daily subsistence rate for actual expenses at two high-rate geographical area rest stop locations in the United States at the beginning and end of international travel, the Federal Travel Regulations only permit the employee to be reimbursed a lower per diem rate when these locations are intermediate stopover points at which no official duty is performed. Since there is no indication of unusual circumstances at the rest stop points that would justify the approval of actual expenses, the employee may be reimbursed only the per diem rate.

The question in this case is whether an employee may be reimbursed the maximum daily subsistence rate for actual expenses as authorized in his travel order at two rest stop locations in the United States at the beginning and end of international air travel, or whether he is entitled only to the lower per diem rate at these two rest stop locations.<sup>1/</sup> Although the rest stop locations were at high-rate geographical areas in which the maximum daily subsistence rate of \$75 per day was otherwise appropriate, the Federal Travel Regulations require the lower per diem rate of \$50 per day to be used when the high-rate geographical area is an en route or intermediate stopover point in the travel at which no official duty is performed, such as occurred in this case. Therefore, since there is no indication of unusual circumstances at the rest stop points that would justify the approval of the maximum daily subsistence rate of \$75 for actual expenses, the employee may be reimbursed only the \$50 per diem rate.

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<sup>1/</sup> The Chief, Financial Operations Division, Office of the Comptroller, United States Information Agency, submitted this as a request for an advance decision.

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### Background

Mr. Gerald K. Kandel, an employee of the United States Information Agency, performed temporary duty travel beginning in January 1983, which originated at his permanent duty station in Washington, D.C., and included stops in Tokyo, Manila, and Hong Kong, before the return to Washington. His travel order, as amended, authorized a rest stop in Seattle after departure from Washington en route to Tokyo, and a rest stop in Los Angeles on the return from Hong Kong. Both rest stop locations were high-rate geographical areas, and the travel order authorized the rate applicable for those locations in the Federal Travel Regulations--the maximum daily subsistence rate for actual expenses of \$75 a day. When Mr. Kandel submitted his voucher for reimbursement of his actual expenses at the rest stop locations, the certifying officer limited the expenses to the per diem rate of \$50.

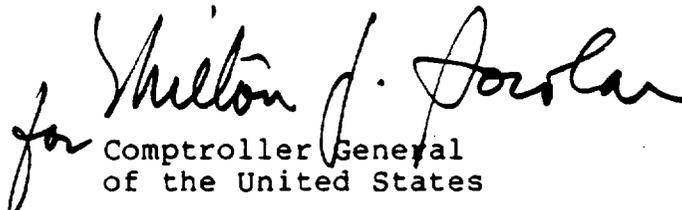
The certifying officer applied the general rule that per diem reimbursement is appropriate for high-rate geographical areas that are only en route or intermediate stopover points at which no official duty is performed. Federal Travel Regulations, para. 1-8.1b, FPMR 101-7 (September 1981), incorp. by ref., 41 C.F.R. § 101-7.003 (1983). And, per diem reimbursement is specifically prescribed for that portion of the international travel (including rest stop stopover points) that occurs in the conterminous United States. FTR, para. 1-7.4(c). See Jay Segal, B-198455, January 6, 1981. However, the Information Agency transmitted the case here on the basis that the officer who requested Mr. Kandel's travel authorization "\* \* \* is basing his authority to authorize the actual expenses on his interpretation of FTR 1-8.1c." The certifying officer does not believe that FTR, para. 1-8.1c, can be applied as an exception to the general rule just mentioned.

### Analysis

Paragraph 1-8.1c of the Federal Travel Regulations provides that actual subsistence reimbursement may be authorized or approved when it is determined that unusual circumstances of the travel have made the maximum

per diem allowance inadequate. The paragraph lists several examples but all concern unusual circumstances occurring in a location at which official duty is being performed, none of which apply to Mr. Kandel's rest stops. However, contrary to the certifying officer's belief, the Comptroller General has recognized that this paragraph can be used as an exception to the general rule of per diem reimbursement at intermediate stopover points at which no official duty is performed. See John F. Clarke, B-209764, March 22, 1983; Dale Heald, B-200081, March 25, 1981. But those cases held that there had to be some specific kind of unusual circumstances in the travel, such as a canceled airlines flight, that provided a necessity that a high-rate geographical area be used as the intermediate stopover point.

There is nothing in Mr. Kandel's travel order or elsewhere in the record of this case describing any unusual circumstances involved in Mr. Kandel's travel. Although the requesting officer correctly points out that para. 1-8.1c, FTR, provides an exception to the general rule discussed previously when unusual circumstances are present, he has furnished no basis for a finding of unusual circumstances. The authorization and scheduling of a rest stop in a high-rate geographical area does not, of itself, indicate unusual circumstances in temporary duty travel and cannot provide an exception to the general rule prescribing per diem reimbursement only at en route or intermediate stopover points at which no official duty is performed. Accordingly, the certifying officer was correct in applying the general rule and limiting Mr. Kandel to the per diem rate of \$50 at his rest stops.

*for*   
Comptroller General  
of the United States